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UNCLAS SECTION 01 OF 03 NEW DELHI 002919

SIPDIS

SIPDIS
SENSITIVE

STATE FOR L/HRR ROBERT HARRIS
STATE FOR CA/VO/F/P JOHN O'MALLEY
STATE FOR DRL

E.O. 12958: N/A
TAGS: [CJAN](#) [CVIS](#) [PTER](#) [PREL](#) [KCRM](#) [PHUM](#) [PGOV](#) [IN](#)
SUBJECT: POST ASSESSMENT: CHEEMA UNLIKELY TO FACE TORTURE
IF REMOVED TO INDIA (CORRECTED COPY)

REF: A. NEW DELHI 2171
[B](#). 05 NEW DELHI 9513
[C](#). 05 NEW DELHI 4449

[1](#)1. (U) This is a corrected copy, with changes throughout.

[1](#)2. (SBU) Summary: As with the pending case involving Kulbir Singh Barapind (Ref A), Post's assessment is that the law enforcement climate in India, and specifically in Punjab, has dramatically improved since Harpal Singh Cheema ("Cheema") fled India in 1993. At that time, a violent insurgency was raging across the Punjab and viewed as a serious threat by the government in Delhi. Tensions rose in 1984 when Sikh terrorists assassinated the serving PM of India, Indira Gandhi. Today, Punjab remains one of the richest states in India, with a progressive government whose Chief Minister (a Sikh) is working to promote harmonious relations among religious groups and between India and Pakistani Punjab.

[1](#)3. (SBU) India also remains a robust democracy, and the Indian government and people are proud of their traditions of rule of law and protection of human rights. India's free press, including in Punjab, actively pursues and exposes government excesses of all varieties, including torture and corruption. The end of the Punjab insurgency in the 1990s ushered in a dramatic decline in custodial deaths and torture allegations. Nor do Sikhs face specific hardships; they are notably prosperous as a people and fully integrated in Indian civil society. For example, the current Indian Prime Minister and Army Chief are Sikhs. Sikhs also enjoy personal income higher than the national average, assets out of proportion to their demographic numbers, and a higher percentage of positions in the Armed Forces, police, and bureaucracy than their numbers vis a vis the rest of the population of India. Finally, now Sikhs overwhelmingly oppose the efforts of Khalistani (pro-insurgency) Sikhs, and the intensive police and security force anti-insurgency efforts of the 1980s and 1990s are largely a thing of the past. While we cannot guarantee absolutely that Cheema would not face torture or other forms of custodial abuse, this Mission believes that, for the factors outlined in this cable, such treatment would be unlikely if Cheema were removed to India, especially with robust monitoring by human rights NGOs, local media, and Cheema's extended family. End Summary.

Improved Conditions for Sikhs

14. (SBU) Conditions for Sikhs began to improve in the mid-1990s and progress has been rapid during the past five years. In order to answer Department of Homeland Security questions regarding the current treatment of Sikhs in India, Embassy New Delhi investigators have worked in Punjab and other Indian states for years to determine the validity of Sikh asylum applications; to date, we have been unable to substantiate a single such claim. Conditions since the mid-1990s have improved so dramatically that, in our view, there have been no legitimate grounds for such asylum seekers since that period. Many legitimate asylum seekers who applied before that period and had already been settled in the US and other countries have since returned to India and reassimilated into Indian society. Indeed, recent press reports have highlighted the cases of "wanted terrorists" who have since assumed leading positions in the Punjab business community.

Signatory to CAT, State Party to ICCPR

15. (U) India signed the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention Against Torture or CAT) in October 1997, over four years after Cheema fled to Canada, and nearly 10 years ago. Although not yet ratified, the Indian government recognizes that "as a signatory, India has good-faith obligation not to act against the objectives and purposes of the Convention" (Ref A). India is also a State Party to the International Covenant on Civil and Political Rights, Article 7 of which provides that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

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High Profile, High Visibility, High Accountability

16. (SBU) Mission is keenly aware of the culture of torture and extrajudicial punishment in Indian jails, as we have outlined in successive Human Rights Reports. However, "Punjabi Kesari" editor Avinash Chopra -- who lost several relatives to Sikh terrorists in the 1980s-90s -- told us that the strong presence of human rights activists in Punjab would help guarantee good behavior by Punjab police toward any persons returned to India (Ref B). Mission understands only a handful of Indian criminal and terrorist suspects have been removed to India from the US since 2000. Mission also notes the favorable Indian press coverage in late 2005 of the return of Abu Salem, who was extradited from Portugal last year for his alleged role as the principal suspect in the March 12, 1993 Mumbai bombings that killed 250 and injured more than 700. If Cheema is removed to India, particularly after the Abu Salem extradition and the recent (and extensively media covered) historic visit of President Bush, Mission expects extensive and long-running media coverage will contribute to guaranteeing good behavior on the part of Indian officials.

17. (SBU) We are similarly encouraged by the most recent terrorism case involving Sikh suspects, the May 2005 Delhi cinema bombings (Ref C). Mission believes the high visibility of the case helped ensure that police officers in Delhi, Haryana, and Punjab maintained professional standards. The investigation into the cinema bombings was marked only by arrests, not by extrajudicial killings or other police excesses.

18. (SBU) As noted in the 2005 Human Rights Report, however, custodial abuse, including sometimes torture, remains a problem in India, and many alleged police violators, particularly from earlier, more violent times, have not been tried for their reported offenses. The Indian media reported, however, that 59 Punjab police officers were found guilty of human rights violations in 2004, and the Director

General of Punjab Police reported that criminal proceedings had begun in the cases of two persons who died in police custody during the year.

National Human Rights Commission Maturing

¶19. (SBU) India's "National Human Rights Commission (NHRC) -- the entity created in 1993 and tasked by law "for better protection of human rights" -- did not exist when Cheema was allegedly tortured in 1989 and 1992. It now has over a decade of experience in investigating and assessing human rights violations in India. Their mandate includes both positive human rights violations and "negligence in the prevention of such violation," according to the Protection of Human Rights Act (1993). GOI assurances aside, the NHRC is legally empowered to visit prisoners "in any jail or any other institution under the control of the State Government" for this purpose. Their senior officers are empowered to "enter any building where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document." The NHRC is an active organization that operates independently of the government and has loudly criticized some government institutions and actions.

Changed India-US Macro Dynamic

¶10. (SBU) The contours of the India-US relationship have dramatically improved over those in 1990. From a very narrow and relationship still largely colored by the prism of Cold War politics, we now have a broad-based and deep-rooted bilateral agenda on a range of issues, including counter-terrorism, which was lacking in 1990, and the historic civil nuclear deal. The GOI would be interested in maintaining and furthering these relations, including for future extraditions and removals (several remain pending), and would be more vigilant about not allowing any missteps that could lead to a reversal of relations either on removals and extraditions specifically, or on the India-US relationship more broadly.

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Other Eyes, Voices, Will Help Ensure Good Behavior

¶11. (SBU) During the Sikh insurgency in the 1980s and 1990s, police routinely tortured and/or killed terrorists' families and associates. Today, however, India has numerous activist human rights NGOs that specialize in assisting victims of police abuse, including some that focus on Punjab. The free press is also sensitive to human rights, and the Supreme Court has recently issued guidelines aimed at preventing and, if necessary, prosecuting incidence of torture and custodial abuse.

Overall Post Assessment: Torture Not Likely

¶12. (SBU) While we cannot guarantee absolutely that Cheema would not face torture or other forms of custodial abuse, this Mission believes that, for the factors outlined above, such treatment would be unlikely if Cheema were removed to India, especially with robust monitoring by human rights NGOs, local media, and Cheema's extended family.

BLAKE